



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1996

Mr. Gary W. Smith
City Attorney
City of Greenville
P.O. Box 1049
Greenville, Texas 75403-1049

OR96-2038

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101758.

The City of Greenville Fire Department (the "city") received requests for four fire reports. You assert that the entire files on the two fires for which persons have been indicted and one fire for which a person has been arrested are excepted from required public disclosure pursuant to Government Code section 552.103. As you raise no exception to its release, we assume the city will release the information about the fire at 3404 King.

Section 552.103(a) of the Government Code excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision as a consequence of the person's office or employment, is or may be a party; and

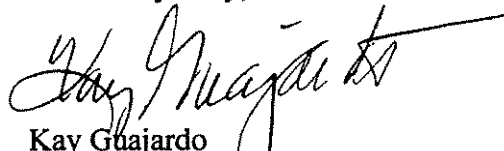
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-

judicial proceeding. Open Records Decision No. 588 (1991). In this instance, you have made the requisite showing that the requested information relates to litigation for purposes of section 552.103(a). The requested records may therefore be withheld.¹

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,


Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 101758

Enclosures: Submitted documents

cc: Mr. Joe Saal, Investigator
Federal Public Defender's Office
535 Griffin, Suite 629
Dallas, Texas 75202
(w/o enclosures)

Rev. Douglas G. Whitlow
The Society of the Christian Brotherhood
4 Jefferson Park, Suite 41
North Cambridge, Massachusetts 02140-3224
(w/o enclosures)

¹We note that if the opposing party in the anticipated litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982); *see* Open Records Decision No. 597 (1991) county may not withhold from public pursuant to predecessor provision of section 552.103 front page offense report information seen by suspect). In addition, the city may not withhold from disclosure pursuant to section 552.103 information that the city has previously publicly released. *See* Open Records Letter No. 96-1522 (1996) (requiring city to release certain information concerning church fires, with exceptions). Finally, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).